

REMARKS

Claims 1-55 are pending in this application. Claims 1, 5, 9, 12-18, 20-21, 39, 42, 44, and 46-55 are independent. In light of the remarks made herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1, 4, 5, 8, 22, 23, and 34-55 under 35 U.S.C. § 102(e) as being anticipated by *Anderson* (USP 6,427,165); rejected claims 9, 11-18, 20, 21, and 24-33 under 35 U.S.C. § 102(e) as being anticipated by *Asano* (USP 5,881,240); rejected claims 2 and 6 under 35 U.S.C. § 103(a) as being unpatentable over *Anderson* in view of *Microsoft Press Computer Dictionary* (1997); rejected claim 19 under 35 U.S.C. § 103(a) as being unpatentable over *Asano*; rejected claims 3 and 7 under 35 U.S.C. § 103(a) as being unpatentable over *Anderson* in view of *Feuerstraeter et al.* (USP 6,285,659); and rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over *Asano* in view of *Feuerstraeter et al.* Applicants respectfully traverse these rejections.

Claim Rejections - 35 U.S.C. § 102(e) - *Anderson*

In support of the Examiner's rejection of claim 1, the Examiner asserts that *Anderson* discloses a data attribute information acquiring unit, citing to col. 4, lines 46-53, and a transfer selecting unit, citing to col. 5, lines 9-11. Applicants

respectfully disagree with the Examiner's characterization of this reference.

The disclosure of *Anderson* is directed to a method and apparatus for information retrieval from a network using parameter value sampling. Specifically, *Anderson* teaches a system including central processor 102 for performing data manipulations and controlling the tasks of the information handling system 100. The system searches a network for information according to a predetermined criterion. After determining the information is located at a node on the network, technical parameters of the node are determined. *Anderson* teaches these technical parameters as being, for example, whether the node is currently accessible, if there is restricted access to the node, the connection rate to the node, whether a fee is required to access the node, download time, etc.

The Examiner relies on *Anderson's* teachings regarding the connection rate to the node as teaching or suggesting the data attribute information acquiring unit acquiring data attribute information of each data item managed by an equipment as recited in claim 1. Applicants respectfully submit that this teaching is insufficient to anticipate the data attribute information acquiring unit of the present invention. While *Anderson's* connection rate describes the connection between the information handling system 100 and a node on the network, this information cannot be

considered data attribute information of each data item managed by an equipment connected to a network.

Additionally, the Examiner's reliance on col. 5, lines 9-11 of *Anderson* is insufficient to teach or suggest the transfer selecting unit of the present invention. *Anderson* merely notes that if the determined parameter value has an acceptable value the information may be obtained from the node in question. However, there is no disclosure in *Anderson* that is directed to selecting a method of data transfer based on the data attribute information of each data item acquired by the data attribute information acquiring unit. *Anderson* fails to teach or suggest that a node has a plurality of transfer techniques available to select. As *Anderson* fails to teach or suggest all of the claimed elements, we believe that claim 1 is not anticipated by *Anderson*. As claims 5, 39, 42, 44, and 46-55 contain elements similar to those discussed with regard to claim 1, we believe that *Anderson* fails to also anticipate these claims.

Claim Rejections - 35 U.S.C. § 102(e) - *Asano*

In the outstanding Official Action, the Examiner asserts that no arguments have been submitted in the previous Reply arguing against the rejection of claims 9, 12-18, 20, and 21. The Examiner asserts that as the amendments that were made to claims 1 and 5 were not included in the other independent claims, the arguments submitted against the Examiner's rejection of claims 9, 12-18, 20,

and 21 were not applicable. Applicants respectfully disagree with the Examiner's assertions.

In the Reply filed on December 2, 2003, Applicants argued that *Asano* fails to teach the data attribute information acquiring unit and the transfer selecting unit of the present invention. These arguments were presented in connection with the Examiner's rejection of claim 1. Upon conclusion of the arguments, Applicants submitted a statement that independent claims 9, 12-18, and 20-21 contained elements similar to those discussed above with regard to claim 1 and/or claim 5. However, the Examiner failed to consider these arguments as they applied to claims 9, 12-18, and 20-21.

For example, Applicants noted that *Asano* teaches a method and device for setting speed of data transmission. *Asano* utilizes computer 98 to facilitate setting a common transmission speed between facsimile machine 2 and facsimile machine 72. The data transmission speed setting device includes an inquiry command transmission means for transmitting an inquiry command to a remote device at a predetermined transmission speed; transmission speed capability acquisition means for receiving, from the remote device, a response to the inquiry command and for determining based on the content of the response any transmission speeds common between the remote device and the transmission device (col. 2, lines 31-39).

Applicants noted that *Asano* fails to teach a data attribute information acquiring unit as recited in claim 1.

Claim 9 recites, *inter alia*, a data transfer apparatus, comprising a data attribute information acquiring unit. Applicants noted in the Reply filed December 2, 2003, that Asano merely facilitates setting a common transmission speed between facsimile machine 2 and facsimile machine 72. This is accomplished by transmitting an inquiry command to a remote device at a predetermined transmission speed where the response to the inquiry command is utilized to determine any transmission speeds, between the remote device and the transmission device. Asano fails to teach a data attribute information acquiring unit acquiring data attribute information of data managed by the first equipment selected by the equipment attribute information selecting unit as recited in claim 9. Further, Asano fails to teach a transfer selecting unit selecting a method of data transfer based on the data attribute information of data acquired by the data attribute information acquiring unit. As such, it is respectfully submitted that Asano fails to anticipate the claimed invention and, thus, claim 9 is allowable over Asano.

It is respectfully submitted that as these arguments were included in the Reply filed December 2, 2003, and as these arguments were not formally considered by the Examiner, it is respectfully requested that these arguments be considered by the Examiner in a new, non-final Official Action.

It is respectfully submitted that claims 12-18, 20-21, 39, 42, 44, and 46-55 contain elements similar to those discussed above with regard to claim 9. Thus, these claims, together with claims dependent thereon, are allowable for the reasons discussed above with regard to claim 9.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Charles Gorenstein, #29,271

CG/CMV/jdm
0033-0638P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000